



COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION

P.O. BOX 2120
RICHMOND 23218-2120

August 20, 2019

Dr. Gregory C. Hutchings, Jr.
Superintendent
Alexandria City Public Schools
1340 Braddock Place
Alexandria, Virginia 22314

Dear Dr. Hutchings:

The Virginia Department of Education (VDOE) conducted a Results-Driven Accountability (RDA) review of special education in Alexandria City Public Schools on March 4-8, 2019, and March 11-12, 2019. This report identifies program improvement focus areas as well as noncompliance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, 8VAC20-81.

All noncompliance must be corrected in a timely manner, not to exceed one year from the date of this letter. Under separate cover, via the VDOE's Single Sign-on for Web Systems (SSWS) portal, are supporting documents. A Corrective Action/Improvement Plan is due to our office by September 30, 2019.

We appreciate Alexandria City Public Schools assistance during the review process. The Division's staff's assistance, cooperation, and professionalism was valued by our team. If you have any questions about the report or the supporting documents, please contact our office within 15 business days from the date of this letter. I may be contacted by email at Jeff.Phenicie@doe.virginia.gov; telephone (804) 786-0303, or you may contact Renee.Simpkins@doe.virginia.gov; telephone (804) 225-2882. We look forward to our continued work with Alexandria City Public Schools.

Sincerely,

A handwritten signature in black ink that reads "Jeff Phenicie".

Jeff Phenicie, M.Ed.

Director, Special Education Program Improvement

c: Dr. Samantha Hollins, Virginia Department of Education
Ms. Renee Simpkins, M.Ed., Virginia Department of Education
Dr. Theresa Werner, Alexandria City Public Schools

**Alexandria City Public Schools
DIVISION OF EDUCATION**

ADMINISTRATIVE REVIEW OF SPECIAL EDUCATION

***Implementation of the Regulations Governing Special Education
Programs for Children with Disabilities in Virginia***

**Effective January 25, 2010
(8VAC 20-81)**

Date of Report:

**~~August 20, 2019~~
Revised October 25, 2019**

**Department of Special Education and Student Services
Office of Special Education Program Improvement**

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF EDUCATION

P. O. BOX 2120

Richmond, Virginia 23218-2120

**ALEXANDRIA CITY PUBLIC SCHOOLS
ADMINISTRATIVE REVIEW OF SPECIAL EDUCATION**

Dates of On-Site Review:

**March 4-8, 2019
March 11-14, 2019**

Contact Information

Questions about this report may be directed to Renee Simpkins, Monitoring Specialist, at Renee.Simpkins@doe.virginia.gov or (804) 225-2882; or you may contact Jeff Phenicie, Director of Special Education Program Improvement, at Jeff.Phenicie@doe.virginia.gov or (804) 786-0308

Team Members

Virginia Department of Education (VDOE)
Division of Special Education and Student Services
Division of School Readiness

Ms. Renee Simpkins, Office of Special Education Program Improvement, Co-team Leader
Mrs. Bonnie English, Office of Special Education Program Improvement, Co-team Leader
Mrs. Danielle Basham, Office of Specialized Education Facilities and Family Engagement
Mrs. Kim Bausum-Brown, Office of Special Education Instructional Services
Dr. Kathy Beasley, Office of Special Education Program Improvement
Ms. Wanda Council, Office of Special Education Instructional Services
Mr. Andrew Greenidge, Office of Special Education Program Improvement
Ms. Sabrina Gross, Office of Due Process and Compliance
Mr. Jonathon Harris, Office of Special Education Program and Family Engagement
Mrs. Ellen Harrison, Office of Special Education Instructional Services
Ms. Dawn Hendricks, Office of Early Childhood
Mr. Daniel Irwin, Office of Special Education Instructional Services
Mrs. Deborah Johnson, Office of Special Education Instructional Services
Ms. Gayle Keith, Office of Special Education Program Improvement
Mrs. Marianne Moore, Office of Special Education Program Improvement
Mrs. Karen Puckett, Office of Special Education Program Improvement
Dr. Patricia Radcliffe, Office of Special Education Program Improvement
Mr. Joseph Wharff, Office of Student Services
Mrs. Kristin Williams, Office of Science, Technology, Engineering, and Mathematics

Statutory and Regulatory Authority

Individuals with Disabilities Education Act (IDEA), 34 CFR 300.600(b), Code of Virginia, §22.1-214, and the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (the Virginia Regulations), 8 VAC 20-81, effective January 25, 2010.

20.S.C. § 1400(d) Purposes. “The purposes of this title are-

- (1) (A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- (B) to ensure that the rights of children with disabilities and parents of such children are protected; and
- (C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;
- (2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;
- (3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and
- (4) to access, and ensure the effectiveness of, efforts to educate students with disabilities.”

20.S.C. § 1412(a)(15) Performance goals and indicators. “The state-

- (A) has established goals for the performance of children with disabilities in the State that-
 - (i) promote the purposes of this title [USCS §§ 1400 et seq.] as stated in this section 601(d) [20 USCS § 1400(d)];
 - (ii) are the same as the State’s definition of adequate yearly progress, including the State’s objectives for progress for children with disabilities, under section

1111(b) (2)(C) of the Elementary and Secondary Education act of 1965 [20 USCS § 6311(b) (2) (C)];

- (iii) address graduation rates and dropout rates, as well as other factors as the State may determine; and
- (iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State.”

Acknowledgement

The Virginia Department of Education (VDOE) extends its appreciation to the Alexandria City Public Schools (ACPS) staff members for their assistance and cooperation throughout the monitoring process. School-based staff members were very inviting and supportive of VDOE throughout the process. Class schedules and rosters were provided to assist the team in planning for the daily walkthroughs. Master and teacher schedules were also provided to assist with the scheduling of teacher and/or administrator interviews. The special education director and the administrative staff facilitated access to necessary documentation that enabled the team to better understand the school division’s procedures and processes for implementing the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*.

Purpose

The *Individuals with Disabilities Education Act* (IDEA) requires that the primary focus of the State’s monitoring activities center on improving educational results and functional outcomes for all children with disabilities. Local education agencies (LEA) must meet the program requirements under Part B of the Act with particular emphasis on requirements that are most closely related to improving educational results for children with disabilities.

The VDOE's administrative review of ACPS program consisted of an examination of the program's policies and procedures for the provision of special education and related services and a determination of compliance or noncompliance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, effective January 25, 2010. Throughout the monitoring process, the review team provided technical assistance and sought to determine whether students with disabilities are in an educational environment that fosters positive outcomes. The review team consisted of staff members from the VDOE's Offices of Special Education Program Improvement, Special Education Instructional Services, and Specialized Education Facilities and Family Engagement. Each team member was a specialist in at least one of 14 disability categories or student services.

Scope and Methodology of the Review

Analysis of the following data was conducted by the VDOE Team:

- Alexandria City Public Schools Local Determination Accountability Matrix, 2016-2017
http://www.doe.virginia.gov/special_ed/reports_plans_stats/special_ed_performance/division/2016-2017/index.shtml
- Alexandria City Public Schools State Performance Plan/Annual Report to the Public, 2016-2017
http://www.doe.virginia.gov/special_ed/reports_plans_stats/special_ed_performance/division/2016-2017/index.shtml
- Alexandria City Public Schools Division and Individual School Quality Profiles
http://www.doe.virginia.gov/statistics_reports/school-quality-profile/index.shtml

Monitoring activities of ACPS were conducted in three stages: pre-review, on-site review, and post-review.

Pre-review activities:

The VDOE co-leads, Renee Simpkins and Bonnie English, met with the ACPS central office staff from the special education offices and Dr. Werner, Executive Director of Special Education, prior to the review to discuss the purpose and scope of the review to gather information regarding the general supervision of special education programming in the division. Dates for the on-site review were reiterated with the team, and the list of schools selected for review was shared with them.

A self-assessment identifying areas of strength and areas needing improvement in the provision of special education services to students with disabilities was completed by Dr. Theresa Werner and selected division team members.

A desk audit was conducted of data related to ACPS' students with disabilities rosters, teaching licenses, teacher caseloads, specialty program locations, previous and ongoing professional development, policies and procedures, the most recent state performance reports, local determinations, and school quality profile.

Development of schedules for the on-site activities, in cooperation with the school division.

Identification of individual student records to be reviewed and school staff to be interviewed during site visits.

On-site review activities:

- A facilitated meeting with key administrative staff from central office and schools selected for an on-site visit was held prior to the school visits. The purpose of the meeting was to gather information about each school as they shared with the VDOE their special education data and what they are currently doing to specifically address improved social/emotional and academic outcomes for students with disabilities.
- The review team members conducted the school division review over a nine-day period at ten selected schools. One school reviewed is a combined elementary and middle school, which is separated in the breakdown of school levels and count below:
 - Four elementary, two middle, one high school, including the satellite ninth grade site, one preschool, and one alternative school
- Dates of the review and schools visited are as follows:
 - **March 4 - 8, 2019** – T.C. Williams High School (King Street Campus), T.C. Williams High School (Minnie Howard Campus), Jefferson Houston School (grades K-8), and Matthew Maury Elementary
 - **March 11-14, 2019** – George Washington Middle School, Mount Vernon Community School, Cora Kelly School for Math, Science, and Technology, William Ramsey Elementary, Early Childhood Center, and Chance For Change
- On-site activities included a review of selected student records, classroom walkthroughs, staff interviews with special and general education teachers, specialists, and/or support staff as necessary, and parents. In total, team members reviewed 111 student records, interviewed 70 school-based staff members comprised of 40 special education teachers, 26 general education teachers, and four administrators. Sixty-nine VDOE selected parents were also interviewed, and the review team conducted 101 classroom walkthroughs.
- Debriefings were held to discuss identified concerns with each school's administrative team and division special education central office representatives upon completion of the individual school review. The co-team leaders concluded the division's review with a preliminary oral report with the superintendent, executive staff members, and the Executive Director of Special Education. Discussion centered on division strengths, program improvement and compliance areas of concern, and next steps in the review process.

Post-review activities:

- Collaboration with the school division to develop a Corrective Action Plan (CAP) to address correction of the identified emerging improvements in need of capacity building, individual student and general supervision noncompliance, and program improvement needs within the timeline.
- Coordination of technical assistance to assist ACPS in the completion of the Corrective Action Plan.
- Review of completed actions in the CAP with ACPS and results-driven accountability (RDA) Team to:
 - Verify correction of individual student and general supervision noncompliance findings by the LEA within the required one-year timeframe.
 - Verify completion of program improvement corrective actions that are likely to ensure sustainable improvement of outcomes for students with disabilities.
 - Verify corrective actions in the area of capacity building for areas identified as emerging, that are also likely to ensure sustainable improvement of outcomes for students with disabilities.
- Closure of the CAP, ensuring sustainable improvement of outcomes for students with disabilities.

The following sections of the special education requirements were the primary focus of the administrative review:

- Referral for Initial Evaluations (8VAC20-81-60)
- Evaluation/Re-evaluation (8VAC20-81-70)
- Eligibility (8VAC20-81-80)
- Termination (8VAC20-81-90)
- IEP (8VAC20-81-110)
- Secondary Transition (8VAC20-81-110)
- Transfer (8VAC20-81-120)
- Least Restrictive Environment (LRE) (8VAC20-81-130)
- Private School Placement (8VAC20-81-150)
- Discipline (8VAC20-81-160)
- Confidentiality of Information/Access Log (8VAC20-81-170)

Results-driven accountability (RDA) areas of focus included attendance, curriculum and instruction, performance on and participation in state assessments, graduation status as it relates to diploma type, and other areas of focus related to improving positive outcomes for students with disabilities.

Identified Strengths

The strengths as identified below were observed and documented by team members at most schools.

- Professional Development is offered on a regular basis on special education topics as well as instructional strategies for working with students with disabilities. Staff development is individualized as needed.
- Support from the ACPS central office special education staff is valued and appreciated by school staff.
- Use of alternatives to out-of-school suspension and strong support for students to prevent suspension.
- Collaborative efforts between general and special education teachers to ensure students are successful. Common planning time is provided to support the delivery of the curriculum by both teachers in most schools. Decisions are made based on student data and instruction is tiered to support learning.
- In many classrooms students were engaged in the learning process as observed during classroom walkthroughs. It was evident that lessons had been planned to address the academic and functioning level of each student in the class.
- Instruction was directly related to the Standards of Learning (SOL). There was also some evidence of research-based practices being used to address student academic and behavioral needs.
- Staff at all schools visited provided various and numerous opportunities for parents to encourage their participation in the educational process (e.g., eligibility/re-evaluation, IEP).
- Administrators and teachers are aware of the barriers that impact student performance as evidenced by interviews. They continuously search for strategies to address the identified barriers.
- Technology is used to support instruction, provide immediate feedback to students, and to inform parents of student progress.
- The division has invested in an intensive Co-Teaching Cadre that includes teachers from numerous schools and disciplines to improve outcomes for students with disabilities.
- During walkthroughs, most classrooms had a very high level of student engagement.

- Overall, the team found that the staff at the various schools were dedicated, compassionate, and were committed to providing students with the opportunity to be academically successful.

Emerging Improvements in Need of Capacity Building

The Team identified two areas of emerging improvement. Continued focus is required in these areas to ensure implementation with fidelity across the division.

Emerging Improvement areas are:

- The investment in training teachers in co-teaching practices to improve outcomes for students with disabilities. While the division has responded to the need to better prepare those general and special education teachers who have been assigned to be instructional partners in inclusion classes, there still remain staff in those assigned positions who expressed that they would like to receive or have additional training on the models of co-teaching and implementation of those models.
- Alexandria City Public Schools has implemented Multi-Tiered System of Supports throughout the division, but fidelity of the implementation of the framework varies from school to school. Some teachers were not aware of the clear structure of MTSS or the interventions specifically geared to improve outcomes for students with disabilities.

Program Improvement Findings

In the schools reviewed, the team identified the following areas in need of program improvement. Each finding must be addressed to ensure positive outcomes for students with disabilities.

- Staff Qualifications and Experience
- Climate and Culture
- Transition and Graduation
- Curriculum, Instruction, and Assessment
- Professional Development and Program Implementation

Program Improvement Finding #1 - ACPS Staff Knowledge and Experience

Staff identified several areas that impact student achievement. Concerns regarding staffing are as follows:

1. Many special education teachers have less than five years of experience, with some schools having a very high number of inexperienced teachers of students with disabilities.
2. Collaborative teachers are often split between grade levels and teachers.
3. General education teachers lack knowledge about student specific disabilities to better address their needs in class.
4. Special education teacher lacks content area knowledge in the classes where they are collaborating with the general education teacher.

All staff interviewed were in agreement that teacher quality and teaching assignments/schedules negatively impact the achievement of students with disabilities.

Program Improvement Finding #2 - Overall Climate and Culture

Team members found most of the schools visited to be warm and inviting places. Staff and students welcomed teams in their classes. Teachers were very willing to share during interviews and were appreciative of the opportunity to share their thoughts. However, there were concerns with climate and culture at a few schools.

Interviews revealed that teacher turnover is high in some schools due to the lack of knowledge of teachers in providing services to students who have disabilities and are also English Language Learners. During the teacher interviews, it was stated how difficult it is to raise scores when teachers are constantly leaving. In addition, some teachers expressed concern regarding equity and trust in the division.

In one school, early learners were not provided positive reinforcement for appropriate behaviors. In addition, some of these classrooms did not have a language rich environment for students that require opportunities for them to use expressive language.

Program Improvement Finding #3 - Parental Concerns

Parent interviews were an integral part of the monitoring process. The purpose was to provide an opportunity for parents to openly share thoughts about their child's placement and experiences in ACPS. Parents could participate through a face-to-face meeting or via telephone interview. Each school staff contacted parents to schedule the interviews prior to the team's arrival.

Parents were randomly selected to include representation from various disabilities, grade levels, ethnicities, and gender. Parents unable to attend face-to-face interviews were advised that they could provide input by contacting the VDOE's parent specialist by telephone later. The VDOE team members made calls to parents who opted for a telephone interview while on-site and upon returning to VDOE. The division provided interpreters at each school for parents who required an interpreter for the interview.

The ACPS and LEA staff members were advised, at the exit meetings, of specific parent concerns and asked follow up questions to determine whether the concerns warrant further discussion with the parent by administration. Administrators shared, with the team, that some parent concerns that were brought to the LEA's attention were being addressed immediately.

Parents were encouraged to contact the division's special education director with concerns that were not resolved at the school level. They were also briefed on VDOE's procedures for resolving disputes—mediation, due process, and complaints resolution and provided guidance on where to obtain additional information on specific concerns.

General Concerns noted by parents are as follows:

- Some parents were not aware of the Special Education Advisory Committee or were not aware of when meetings were held.
- Parents in the city-wide program for Autism/Intellectually Disabled (ID) expressed concern about the challenge to get appropriate general education teachers at the IEP meeting (e.g., PE teacher). They also expressed concern that if a general education teacher does attend the meeting, they do not stay for the entire meeting.
- Many parents stated that they were not aware of the different diploma options and how testing will impact their child's diploma type.
- Most parents were not aware of the Academic and Career Plan.
- Many high school parents were not aware of credit accommodations for the standard diploma.
- Some parents were concerned that IEP meetings were not held in a timely manner, when requested by a parent, or did not know they had a right to request an IEP meeting prior to the annual meeting due date.
- Some parents of elementary school-age students would like to receive interim grade reports.
- Many parents do not understand the special education process.
- Many parents indicated that IEPs are not followed and are not updated annually.

Team members who conducted the parent interviews also got the general impression that parents of students who are English Language Learners as well as students with disabilities oftentimes are non- or limited-English speakers themselves. Therefore, their ability to access and understand the special education process is greatly reduced. This occurs despite the translation services and other parent training opportunities the division currently have in place.

Program Improvement Finding #4 - Transition and Graduation

In an effort to further explore issues surrounding the below target federal graduation index (FGI) rate for Students with Disabilities in ACPS, the VDOE's Associate Director in the Office of Student Services conducted interviews with T.C. Williams' school counselors and completed *Credit Worksheet* reviews on four seniors. The review revealed that while all but one student was on track to graduate, credit accommodation documentation from IEP Teams was unclear regarding the specific courses for which eligibility was being determined. Student

transcripts were also found to lack verified credits earned and industry certification designation. Likewise, Academic and Career Plans were either not in the file or incomplete.

Therefore, it is recommended that there be closer collaboration between special education and school counselors on eligible credit accommodations for students. It is also recommended that IEP Teams add more specificity regarding courses for which students are eligible in IEPs. All students should be properly counseled on industry certifications and given opportunities to earn credentials. It would also be helpful for the division to add a check box for the industry certification requirements on its credit count sheets, and that school counselors have timelines as when to discuss this with students.

More training and resources should be provided to staff in the area of postsecondary education, labor market data, and realistic postsecondary education programs, and career planning. While some school counselors do collaborate with case managers, it would be helpful if they regularly attended IEP meetings and/or collaborated with case managers around individual career goals for students. Training and resources should also be provided to ensure Academic and Career Plans are being properly created, maintained, and stored to best serve students.

File reviews at the middle and high school levels, as well as the review conducted by the VDOE's Associate Director in the Office of Student Services, indicated that the annual goals related to postsecondary transition were often vague and lacked specificity. Additionally, some students' schedules did not align with their career goals. This lack of specificity and misalignment could negatively impact SWDs' graduation status as well as their ability to achieve their postsecondary goals.

Program Improvement Finding #5 - Curriculum, Instruction, and Assessment

Behavior Management

1. Student files reviewed revealed that in some instances students with Emotional Disabilities or other behavior concerns were absent from school several days, but an IEP team did not convene to discuss the student to determine if additional supports or services might be needed (e.g., an FBA/BIP (Functional Behavior Assessment/Behavior Intervention Plan)).
2. Files reviewed of students in the city-wide, more restrictive, Emotional Disability program also did not have BIPs developed. The IEP Teams should discuss the behavioral needs of students in these programs no less than once per year. The prior written notices (PWN) associated with these meetings should note what option was proposed to address the behavior, rational for the decision made by the team to address the student's behavior, and other options considered.

Case managers and IEP Teams should be diligent in addressing student behaviors through the IEP and FBA/BIPs especially when those behaviors impede their learning or the learning of

others. It is also imperative that there is periodic follow-up to determine if other services are needed or changes are warranted especially when negative behaviors escalate or fail to diminish.

Continuum of Services

1. An interview with a staff member revealed that some content courses are only offered to students with disabilities in a self-contained setting. It was also revealed that students with disabilities are not given the opportunity to take certain math courses that are designated for gifted students.
2. Classroom walkthroughs revealed many students were pulled out of content co-taught classes during instruction. Oftentimes, students with disabilities were pulled prior to the introduction of the lesson being taught. The school division should ensure that students with disabilities have an opportunity to be educated with their general education peers to the greatest extent possible.

The school division should make every effort to ensure that students with disabilities have an opportunity to be educated with their general education peers to the greatest extent appropriate for them.

Inclusive Practices and Specially Designed Instruction (SDI)

1. An interview with some staff and classroom walkthroughs revealed that co-teachers do not plan together; therefore, instruction is not cohesive. Additionally, they do not share instructional responsibilities.
2. Review of many lesson plans revealed there was no documentation of specially designed instruction for students with disabilities.

Ensure emphasis is given on training and supporting co-teachers/teachers on specially designed instruction to include how to document specially designed instruction in a student's IEP. Use a co-teaching walkthrough tool to document the effectiveness of co-teaching practices and that SDI is implemented with fidelity.

Core Instruction- Math and Reading

1. The VDOE Math Instructional Specialist/Instructional Special Education Specialist met with the school division's Math Content Specialist and Special Education Specialist and it was revealed that division's specialists collaborate via email on instructional practices. As students with disabilities in ACPS continue to score well below the State target for Reading on the Standards of Learning tests (SOLs), it is recommended that specialists are provided an intentional time for collaboration on instructional best practices for students with disabilities, as well as, evidence-based specially designed instruction.

2. The VDOE Dyslexia Specialist met with an ACPS staff member who is primarily familiar with the provision of language arts K-5. The staff member who has oversight of Special Education Reading was not able to meet to share insight regarding their role and the process by which students with disabilities are identified and provided specialized Reading intervention in order to address their specific areas of need. Reportedly, three years ago ACPS transitioned from an autonomous system regarding their language arts instructional model to a more centralized system, requiring each school to adhere to a set of non-negotiables set forth by central office.

Despite these efforts at Tier 1, interventions available at Tier 2 or Tier 3, and multiple reading interventions across the district, students with disabilities continue to score well below the State target on the SOLs. A barrier to the improved performance of SWDs on SOL tests appears to be that there has been limited implementation, with fidelity, by teachers who have been trained in a multisensory structured literacy approach. Of those teachers who have received training, there is oftentimes no follow-up or coaching provided to them, thus making quality instruction difficult to sustain. Moreover, it is unclear as to how the division arrived at the selection of its current intervention tools, and whether they truly address the needs of students with significant Reading delays in the division. It is also unclear as to how well these tools predict success on the Reading SOL or End of Course Reading Assessment.

Therefore, it is suggested that the division examine the abovementioned barriers with an intentional focus on meeting the needs of students who have significant needs in the area of Reading. Oftentimes, this group of students includes a great number of students with disabilities. NOTE: Currently, there is no dyslexia advisor listed for this division.

Program Improvement Finding #6 - Professional Development and Program Implementation

Additional professional development for both general educators and special educators was a consistent message heard during staff interviews as well as building administrators at the schools receiving on-site visits.

Areas of expressed need include:

- Co-teaching- Specifically high-yield models of co-teaching.
- Positive Behavioral Interventions and Supports (PBIS)
- Cultural Competency
- Differentiation of instruction
- Multi-Tiered System of Supports (MTSS)
- Early Childhood
- Trauma Informed Practices

It is imperative to continue to offer various professional development opportunities on topics staff would like to receive additional or initial training in order to meet the needs of students with disabilities. Monitoring of the use of information/tools shared via professional development to ensure implementation is done with fidelity and consistency is needed division-wide. Teacher interviews revealed that training is not mandatory, so most teachers do not attend the training they may need to attend the most to address the needs of students with disabilities. If these trainings continue to be optional for staff responsible for educating students with disabilities, they will not have the tools necessary to do their jobs effectively or efficiently. In the end students with disabilities will not receive the appropriate education to which they are entitled.

Program Improvement Finding #7 – Caseload Management for Out-of-District Coordinator

While the special education caseload staffing requirements noted at 8VAC20-81-340 references the maximums as funded by the *Virginia Appropriation Act*, it is advised that the school division reconsider the number of students the out-of-district coordinator has to manage. Not only does this staff member have more students on their caseloads than other case managers in the division, the students he/she has to case manage are from the spectrum of State recognized disability categories in which the coordinator may not be endorsed or have expertise. Additionally, having increased caseload responsibility oftentimes reduces the amount of time these staff members have to visit facilities to assess the various placements.

Individual Student Noncompliance Findings

The IEPs had several areas that were found to be noncompliant. The regulation is outlined for each area of noncompliance. The section below provides the regulatory requirement followed by the observation, which details what was seen in the file that determined noncompliance.

Noncompliance finding #1 - VDOE Eligibility Criteria Utilized (8VAC20-81-80)

H. For all children suspected of having a disability, local educational agencies shall:

1. Use the criteria adopted by the Virginia Department of Education, as outlined in this section, for determining whether the child has a disability; and
2. Have documented evidence that, by reason of the disability, the child needs special education and related services. (34CFR 300.307(b))

Observation

A review of some student records revealed disability criteria worksheets were either not included in the file, as is ACPS practice, not properly completed to justify the eligibility decision for a particular disability, or the eligibility paperwork was not clear that the team had used the criteria for the disability category.

Noncompliance Finding #2 - Procedures for Initial Evaluations (8VAC20-81-60)

B. Procedures for referral for initial evaluation.

1. b. Ensure that all evaluations are completed and that decisions about eligibility are made within 65 business days of the receipt of the referral by the special education administrator or designee, including if the special education administrator or designee routes the referral to the school-based committee for review and action. The time frame shall not apply to the local school division if: (34 CFR 300.301 (d) and (e)
- e. The special education administrator, or designee, shall secure informed consent from the parent(s) for the evaluation.

Observation

A review of records revealed that:

1. A student's initial eligibility was not completed within the 65 business day timeline.
2. Parental consent was not obtained to complete evaluations prior to evaluations being given to a student to determine eligibility.

Noncompliance Finding #3 - Evaluation and Reevaluation (8VAC20-81-70)

B. Determination of needed evaluation data for initial evaluation or reevaluation. (34 CFR 300.305 and 34 CFR 300.507)

1. Review of existing evaluation data. A group that is comprised of the same individuals as an IEP team and other qualified professionals, as appropriate, shall:
 - b. On the basis of that review and input from the child's parent(s), identify what additional data, if any, are needed to determine:
 - (2) The present educational needs of the child;
 - (3) The child's present level of academic achievement and related developmental needs.

Observation

A review of student records revealed the eligibility group did not document some students present educational needs, present level, or academic achievement and related developmental needs when determining eligibility.

Noncompliance Finding #4 - Evaluation and Reevaluation (8VAC20-81-70)

C. The local educational agency shall establish policies and procedures to ensure that the following requirements are met. (§22.1-214 of the *Code of Virginia*; 34 CFR 300.304 and 34 CFR 300.310).

14. a. The hearing of each child suspected of having a disability shall be screened during the eligibility process prior to initial determination of eligibility for special education and related services.

Observation

A review of student records revealed hearing screenings were not completed for initial eligibilities or were not found in student records.

Noncompliance Finding #5 - Evaluation and Reevaluation (8VAC20-81-70)

B. Determination of needed evaluation data for initial evaluation or reevaluation. (34 CFR 300.305 and 34 CFR 300.507)

1. Review of existing evaluation data. A group that is comprised of the same individuals as an IEP team and other qualified professionals, as appropriate.

Noncompliance Finding #6 - Completion of Triennial Review Prior to the Third Anniversary Date (8VAC20-81-70)

H. Timelines for reevaluations.

1. The reevaluation process, including eligibility determination, shall be initiated insufficient time to complete the process prior to the third anniversary of the date eligibility was last determined.

Observation

A review of records revealed that the triennial for two students were held after the third anniversary of the date eligibility was last determined.

Noncompliance Finding #7 - Provision of Prior Written Notice at Eligibility (8VAC20-81-170)

C. Prior written notice by the local educational agency; content of notice.

1. Prior written notice shall be given to the parent(s) of a child with a disability within a reasonable time before the local educational agency: (34 CFR 300.503(a))

- a. Proposes to initiate or change the identification, evaluation, or educational placement (including graduation with a standard or advanced studies diploma) of the child, or the provision of a free appropriate public education for the child.
- b. Refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education for the child.

Observation

A review of records revealed that:

- 1) Parents were not provided Prior written notice with all required components at eligibility; and
- 2) Prior written notice was not provided to parents at eligibility.

Noncompliance Finding #8 - Eligibility Determination Group Composition (8VAC20-81-80)

C. Group Composition

2. b. (1-6) The group shall include, but not be limited to: (1) Local educational agency personnel representing the disciplines providing assessments; (2) The special education administrator or designee; (3) The parent(s); (4) A special education teacher; (5) The child's general education teacher or if the child does not have a general education teacher, a general education teacher qualified to teach a child of the child's age; or for a child of less than school age, an individual qualified to teach a child of the child's age; and (6) At least one person qualified to conduct individual diagnostic examinations of children, such as school psychologist, speech-language pathologist, or remedial reading teacher.

Observation

A review of records indicated that the composition of the Eligibility team was incomplete for several meetings.

Noncompliance Finding #9 - Use of Observation Data in Determining Continued Eligibility (8VAC20-81-80)

D. Procedures for determining eligibility and educational need (34 CFR 300.306 through 34 CFR 300.311).

3. Observation.

- b. The eligibility group, in determining whether a child is a child with a disability shall:
 - (1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or

- (2) Have at least one member of the eligibility group conduct an observation of the child's academic performance in the general education classroom after the child has been referred for an evaluation and parental consent has been obtained with the requirements of 8VAC20-81-170.

Observation

A review of records revealed that the eligibility group did not document the use of observation data on the eligibility determination summary completed during the discussion of the student's continued eligibility for special education, nor was observation data found elsewhere in the student's record.

Noncompliance Finding #10 - Obtaining Written Parental Consent for Initial Eligibility Determination (8VAC20-81-80)

D. Procedures for determining eligibility and educational need (34 CFR 300.306 through 34 CFR 300.311).

8. The local educational agency shall obtain written parental consent for the initial eligibility determination. Thereafter, written parental consent shall be secured for any change in categorical identification in the child's disability.

Observation

A review of records revealed that the eligibility group did not obtain written parental consent for a student's initial placement in special education.

Noncompliance Finding #11 - Written Summary of Eligibility Determination (8VAC20-81-80)

D. Procedures for determining eligibility and educational need (34 CFR 300.306 through 34 CFR 300.311).

9. The eligibility group shall have a written summary that consists of the basis for making its determination as to the eligibility of the child for special education and related services. The written summary shall include any written statement from a member whose conclusion differs from the other members' determination. The summary statement may include other recommendations. The written summary shall be maintained in the child's scholastic record.

Observation

A review of a student's record revealed that there was no written summary containing the eligibility team's basis for making its determination.

Noncompliance Finding #12 - Development of IEP Within 30 Days of Eligibility (8VAC20-81-110)

B. Accountability.

2. Each local educational agency shall ensure that an IEP: (34 CFR 300.323(c))
 - b. Is developed within 30 calendar days of the date of the initial determination that the child needs special education and related services;
 - c. Is developed within 30 calendar days of the date the eligibility group determines that the child remains eligible for special education and related services following reevaluation, if the IEP team determines that changes are needed to the child's IEP, or if the parent requests it.

Observation

A review of student records revealed that students' IEPs were not developed within 30 days of initial eligibility, continued eligibility when changes were needed, or upon parent request following reevaluation.

Noncompliance Finding #13 - Complete IEP Team Composition (8VAC20-81-110)

C. IEP team.

1. General. The local educational agency shall ensure that the IEP team for each child with a disability includes: (34 CFR 300.321(a), (c) and (d))
 - a. The parent(s) of the child;
 - b. Not less than one regular education teacher of the child (if the child is or may be participating in the regular educational environment);
 - c. Not less than one special education teacher of the child or, if appropriate, not less than one special education provider of the child. For a child whose only disability is speech-language impairment, the special education provider shall be the speech-language pathologist;
 - d. A representative of the local educational agency who is:
 - (1) Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;
 - (2) Knowledgeable about the general education curriculum; and
 - (3) Knowledgeable about the availability of resources of the local education agency.
A local educational agency may designate another member of the IEP team to serve simultaneously as the agency representative if the individual meets the above criteria.

- e. An individual who can interpret the instructional implications of evaluation results. This individual may be a member of the team serving in another capacity, other than the parent of the child;
- f. At the discretion of the parent(s) or local educational agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate. The determination of knowledge or special expertise of any individual shall be made by the party (parent(s) or local educational agency) who invited the individual to be a member of the team; and
- g. Whenever appropriate, the child.

Observation

Review of a student's record revealed that there was no documentation or incomplete documentation of participation and/or attendance of required IEP Team members.

Noncompliance Finding #14 - IEP Team Consideration of the Strengths of the Child (8VAC20-81-110)

F. Development, review, and revision of the IEP (34 CFR 300.324(a)).

- 1. In developing each child's IEP, the IEP team shall consider:
 - a. The strengths of the child.

Observation

A review of two student's records revealed that there was no documentation of the IEP Team's consideration of students' strengths.

Noncompliance Finding #15 - IEP Team Consideration of the Concerns of the Parent(s) (8VAC20-81-110)

F. Development, review, and revision of the IEP (34 CFR 300.324(a)).

- 1. In developing each child's IEP, the IEP team shall consider:
 - a. The concerns of the parent(s) for enhancing the education of their child.

Observation

A review of student records revealed that there was no documentation of the IEP Team's consideration of parent concerns.

Noncompliance Finding #16 – IEP Team Consideration of the Results of the Initial or Most Recent Evaluation (8VAC20-81-110)

F. Development, review, and revision of the IEP (34 CFR 300.324(a)).

1. In developing each child’s IEP, the IEP team shall consider:

c. The results of the initial or most recent evaluation of the child.

Observation

A review of student records revealed that there was no documentation of the IEP Team’s consideration of the results of the most recent evaluation of the child.

Noncompliance Finding #17 - IEP Team Consideration of Academic, Developmental, and Functional Needs of the Student (8VAC20-81-110)

F. Development, review, and revision of the IEP (34 CFR 300.324(a)).

1. In developing each child’s IEP, the IEP team shall consider:

d. The academic, developmental, and functional needs of the child.

Observation

A review of a student’s record revealed that there was no documentation of the IEP Team’s consideration of his/her academic, developmental, and/or functional needs.

Noncompliance Finding #18 – IEP Team Consideration of Behavior Intervention Strategies and Support to Address Behavior (8VAC20-81-110)

F. Development, review, and revision of the IEP (34 CFR 300.324(a)).

2. The IEP team also shall:

a. In the case of a child whose behavior impedes the child’s learning or that of others, consider the use of positive behavioral interventions, strategies, and supports to address the behavior.

Observation

A review of student’s record revealed that there was no documentation of the IEP Team’s consideration of behavior intervention strategies and support to address behavior.

Noncompliance Finding #19 - Team Consideration of the Language Needs for Limited English Proficiency (8VAC20-81-110)

F. Development, review, and revision of the IEP (34 CFR 300.324(a)).

1. In developing each child's IEP, the IEP team shall consider:

- b. In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP.

Observation

A review of a student's record revealed that there was no documentation of the IEP Team's consideration of the student's language needs.

Noncompliance Finding #20 - Team Consideration of Braille for Blind or VI students (8VAC20-81-110)

F. Development, review, and revision of the IEP (34 CFR 300.324(a))

2. In developing each child's IEP, the IEP team shall consider:

- c. In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in Braille or the use of Braille, that instruction in Braille or the use of Braille is not appropriate for the child;

Observation

A review of a student's record revealed that there was no documentation of the IEP Team's consideration of the student's visual needs.

Noncompliance Finding #21 - IEP Consideration: Benchmarks or Short-term Objectives (8VAC20-110)

F. Development, review, and revision of the IEP (34 CFR 300.324(a))

2. In developing each child's IEP, the IEP team shall consider:

- e. Consider the child's needs for benchmarks or short-term objectives;

Observation

A review of a student's record revealed that there was not documentation of the IEP Team's consideration of the student's need for Benchmarks and short-term objectives.

Noncompliance Finding #22 - IEP consideration: Assistive Technology (8VAC20-110)

F. Development, review, and revision of the IEP (34 CFR 300.324(a))

2. In developing each child's IEP, the IEP team shall consider:

g. Consider whether the child requires assistive technology devices and services.

Observation

A review of two student records revealed that the IEPs did not document consideration of the students' need for assistive technology.

Noncompliance Finding #23 - IEP Includes How Disability Affects Involvement and Progress in the General Curriculum 8VAC20-81-110

G. Content of the individualized education program. The IEP for each child with a disability shall include:

1. A statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general curriculum or, for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities (34 CFR 300.320(a) (1)).

Observation

A review of a student's record revealed that there was no documentation of how the student's disability affects his/her involvement and progress in the general curriculum.

Noncompliance Finding #24 - Test Scores, If Appropriate, Shall Be Self-Explanatory Or Explanation Provided (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

1. A statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general curriculum or, for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities (34 CFR 300.320(a) (1)).

a. The statement shall be written in objective measurable terms, to the extent possible. Test scores, if appropriate, shall be self-explanatory or an explanation shall be included.

Observation

A review of student records revealed that test scores in IEPs were not self-explanatory nor was an explanation included.

Noncompliance Finding #25 - IEP Present Level of Performance Directly Relates to Other Components of IEP (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

1. A statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general curriculum or, for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities (34 CFR 300.320(a) (1)).

a. The present level of performance shall directly relate to the other components of the IEP.

Observation

A review of student records revealed that present levels of performance did not directly relate to other components of the students' IEPs.

Noncompliance Finding #26 - IEP Includes Measurable Annual Goals (Academic and Functional) to Enable Involvement and Progress in the General Curriculum ((8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

2. A statement of measurable annual goals, including academic and functional goals designed to: (34 CFR 300.320(a) (2))

a. Meet the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum, or for preschool children, as appropriate, to participate in appropriate activities; and

b. Meet each of the child's other educational needs that result from the child's disability.

Observation

A review of student records revealed that one or more annual goals in students' IEPs were not measurable or did not meet the children's needs.

Noncompliance Finding #27 - IEP Includes an Explanation of the Extent the Child Will Not Participate in Regular Class and Activities (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

5. An explanation of the extent, if any, to which the child will not participate with children without disabilities in the regular class and in the activities described in this section (34 CFR 300.320(a) (5)).

Observation

A review of a student's record revealed that there was no explanation in the IEP of the extent to which the student would not participate in regular classes and activities.

Noncompliance Finding #28 - IEP Includes How Student Will Participate in Assessments (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

6. The following information concerning state and division-wide assessments shall be included: (34 CFR 300.320(a) (6))
 - a. A statement of any individual appropriate accommodations or modifications that are necessary to measure the child's academic achievement and functional performance, in accordance with the guidelines approved by the Board of Education, in the administration of state assessments of student achievement that are needed in order for the child to participate in the assessment.

Observation

A review of a student's record revealed that his/her IEP did not address how they will participate in state and division-wide assessments, and/or accommodations or modifications necessary to measure their academic achievement and functional performance were not addressed.

Noncompliance Finding #29 - Impact of Nonparticipation in Regular Assessment on Promotion and Graduation (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

6. The following information concerning state and division-wide assessments shall be included: (34 CFR 300.320(a) (6))

- b. If the IEP team determines that the child must take an alternate assessment instead of a particular state assessment of student achievement (or part of an assessment), a statement of:

- (3) How the child's nonparticipation in the assessment will impact the child's promotion; graduation with a modified standard, standard, or advanced studies diploma; or other matters.

Observation

A review of student records revealed that their IEPs do not address how nonparticipation in regular assessments will impact promotion, graduation, or other matters.

Noncompliance Finding #30 - Documentation of Projected Date, Frequency, Location, and Duration of Services and Modifications (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

- 7. The projected dates (month, day, and year) for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications (34 CFR 300.320(a)(7)).

Observation

A review of student records revealed that there was no documentation in their IEPs of services/modifications and the frequency, location, and duration of those services and modifications, or documentation of these required components were ambiguous.

Noncompliance Finding #31 - Statement of How the Child's Progress Toward Annual Goals will be Measured (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

- 8. A statement of: (34 CFR 300.320(a) (3))
 - a. How the child's progress toward the annual goals will be measured.

Observation

A review of a student's record revealed that there was no statement of how progress toward one or more annual goal would be measured.

Noncompliance Finding #32 – Periodic Reporting of Progress on Annual Goals (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

8. A statement of: (34 CFR 300.320(a) (3))
 - a. When periodic reports on the progress the child is making toward meeting the annual goals will be provided; for example, through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, and at least as often as parents are informed of the progress of their children without disabilities.

Observation

A review of student records revealed that there was no periodic reporting of progress on one or more annual goals provided to parents at least as often as parents are informed of the progress of their children without disabilities.

Noncompliance Finding #33 – IEP Meeting Invitation Involving Transition Planning Provided to Student (8VAC20-81-110)

C. IEP team.

3. Secondary transition service participants (34 CFR 300.321(b)).
 - a. The local educational agency shall invite a student with a disability of any age to attend the student’s IEP meeting if a purpose of the meeting will be the consideration of:
 - (1) The student’s postsecondary goals;
 - (2) The needed transition services for the student; or
 - (3) Both.

Observation

A review of student records revealed that there was no documented evidence that they were invited to their IEP meetings when the purpose of the meeting was to consider postsecondary goals, transitions services, or both.

Noncompliance Finding #34 - Consideration of Student’s Preferences and Interests When Absent from Transition Planning Meeting (8VAC20-81-110)

C. IEP team.

3. Secondary transition service participants (34 CFR 300.321(b)).

- b. If the student does not attend the IEP meeting, the local educational agency shall take other steps to ensure that the student's preferences and interests are considered.

Observation

A review of student records revealed that there was no documentation that the students attended, or there was no documentation of students' preferences and interests.

Noncompliance Finding #35 - Transition Plan Includes Age-Appropriate Measurable Postsecondary Goals Based on Age-Appropriate Assessments (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

- 10. Secondary transition services (34 CFR 300.43 and 34 CFR 300.320(b)).
 - a. Prior to the child entering secondary school but not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include age-appropriate:
 - (1) Measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.

Observation

A review of student records revealed that IEPs did not include measurable postsecondary goals based on age appropriate transition assessment in all of the required areas; the goals were not measurable; the goals were not postsecondary; and/or the goals were not based on age-appropriate transition assessments.

Noncompliance Finding #36 - IEP Includes Age-Appropriate Transition Services, Including Courses of Study, to Assist Student in Reaching Transition Goals (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

- 10. Secondary transition services (34 CFR 300.43 and 34 CFR 300.320(b)).
 - a. Prior to the child entering secondary school but not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include age-appropriate:

- (2) Transition services, including courses of study, needed to assist the child in reaching those goals. Transition services shall be based on the individual child's needs, taking into account the child's strengths, preferences, and interests.

Observation

A review of a student's record revealed that his/her IEP did not include age-appropriate transition services and/or courses of study to assist in reaching his/her postsecondary goals, or the transition services provided were not based on the individual student's strengths, preferences, or interests.

Noncompliance Finding# 37 - IEP Includes Annual Goals Related to Student's Transition Services Needs (8VAC20-81-110)

34 CFR 300.43

(a) *Transition services* means a coordinated set of activities for a child with a disability that—

- (2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes—

(iv) The development of employment and other post-school adult living objectives.

34 CFR 300.320 Definition of individualized education program.

(a) *General.* As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324, and that must include—

- (2)(i) A statement of measurable annual goals, including academic and functional goals designed to—

(B) Meet each of the child's other educational needs that result from the child's disability.

Observation

A review of student records revealed that annual goals and activities did not relate to the students' transition service needs; therefore, they would not promote movement toward the achievement of their postsecondary goals.

Noncompliance Finding #38 - IEP for Student Sixteen Years of Age, or Younger if Appropriate, Includes a Statement of Interagency Responsibilities or Linkages (8VAC20-81-110)

G. Content of the individualized education program. The IEP for each child with a disability shall include:

10. Secondary transition services (34 CFR 300.43 and 34 CFR 300.320(b)).
 - a. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team, and updated annually, in addition to the requirements of subdivision 10a of this subsection, the IEP shall also include a statement, if appropriate, of interagency responsibilities or any linkages.

Observation

A review of student records revealed that there was no documentation of the required statement of interagency responsibilities or linkages, or interagency linkages were appropriate, but not included in the IEP.

Noncompliance finding #39 - Age of majority: Parent and student notified one year before student turns 18 (8VAC-81-110)

G. Content of the individualized education program. Beginning at least one year before a student reaches the age of majority, the student's IEP shall include:

11. A statement that the student and parent(s) have been informed of the rights under this chapter, if any, that will transfer to the student on reaching the age of majority. (34 CFR 300.320(c))

Observation

A review of student records revealed that there was no documentation that a parent and student had been informed that the parental rights will transfer to the student when the student reaches the age of majority.

Noncompliance Finding #40 - Provision of a Free Appropriate Public Education (FAPE) for IEP Transfer Student in Consultation with Parent(s) (8VAC20-81-120)

A. Children with disabilities who transfer between local educational agencies in Virginia or transfer from a local educational agency outside of Virginia to a local educational agency in Virginia within the same school year are subject to the following provisions (34 CFR 300.323(e), (f), and (g)).

2. The new local educational agency shall provide a free appropriate public education to the child, including ensuring that the child has available special education and related

services, in consultation with the parent(s), including services comparable to those described in the child's IEP from the previous local educational agency, until the new local educational agency either:

Observation

Review of a transfer IEP student's record revealed that there was no documentation of consultation with his/her parents regarding the services he/she is currently receiving.

Noncompliance Finding #41 - Parental Consent to Adopt and Implement IEP from Previous LEA, or Consent to Evaluate and Develop a New IEP for Transfer Student (8VAC20-81-120)

- A. Children with disabilities who transfer between local educational agencies in Virginia or transfer from a local educational agency outside of Virginia to a local educational agency in Virginia within the same school year are subject to the following provisions (34 CFR 300.323(e), (f), and (g)).
2. The new local educational agency shall provide a free appropriate public education to the child, including ensuring that the child has available special education and related services, in consultation with the parent(s), including services comparable to those described in the child's IEP from the previous local educational agency, until the new local educational agency either:
 - a. Adopts and implements the child's IEP from the previous local educational agency with the parent's consent; or
 - b. Conducts an evaluation, if determined necessary by the local educational agency, and develops and implements a new IEP with the parent's consent that meets the requirements in this chapter.

Observation

Review of a transfer IEP student's record revealed that there was no documentation of parent consent to adopt and implement the child's IEP from the previous LEA; or to conduct an evaluation, if determined necessary by the LEA, and develop and implement a new IEP.

Noncompliance Finding # 42 - Document All Alternatives Considered and Rationale for Placement (8VAC20-81-130)

- B. Continuum of alternative placements. (§ 22.1-213 of the *Code of Virginia*; 34 CFR 300.115)
3. No single model for the delivery of services to any specific population or category of children with disabilities is acceptable for meeting the requirement for a continuum of alternative placements. All placement decisions shall be based on the individual needs of each child.

4. Local educational agencies shall document all alternatives considered and the rationale for choosing the selected placement.

Observation

A review of two student records revealed that there was no documentation of one or more of the following: all placement alternatives considered; the rationale for choosing the selected placement; or placement decisions based on the individual needs of the child.

Noncompliance Finding #43 - IEP Student Served in Program with Age-Appropriate Peers or Documented Appropriate Alternative Placement (8VAC20-81-130)

B. Continuum of alternative placements. (§ 22.1-213 of the *Code of Virginia*; 34 CFR 300.115)

5. Children with disabilities shall be served in a program with age-appropriate peers unless it can be shown that for a particular child with a disability, the alternative placement is appropriate as documented by the IEP.

Observation

A review of a student record revealed there was no documentation of the placement decision noted in the student's IEP.

Noncompliance Finding #44 - Discipline Procedure (8VAC20-81-160)

B. Short term removals

2. Services during short-term removals.
 - a. For additional short-term removals, which do not constitute a pattern, the local educational agency shall provide services to the extent determined necessary to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals of the student's IEP. School personnel, in consultation with the student's special education teacher, make the service determinations. (34 CFR300.530(b)(2))

Observation

A review of a student's record revealed there were no services provided to the student during his/her short term suspension.

Noncompliance Finding #45 - Discipline Procedures (8VAC20-81-160)

C. Long-term removals

4. On the date on which the decision is made to long-term remove the student because of a violation of a *Code* of student conduct, the local educational agency shall notify the

parent(s) of the decision and provide the parent(s) with the procedural safeguards. (34 CFR 300.530(h))

5. Special circumstances. (34 CFR 300.530(g))

- a. School personnel may remove a child with a disability to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if:
 - (1) The child carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of a local educational agency or the Virginia Department of Education; or
 - (2) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a local educational agency or the Virginia Department of Education; or
 - (3) The child inflicts serious bodily injury upon another person at school, on school premises, or at a school function under the jurisdiction of a local educational agency or the Virginia Department of Education.
- b. For purposes of this part, "weapon," "controlled substance," and "serious bodily injury" have the meaning given the terms under 8VAC20-81-10.

Observation

A review of a student's record revealed that the parent was not provided notice when discipline resulted in suspension that was longer than ten days. In addition there was no documentation that an IEP Team met to determine an interim alternative placement for the student during the long-term removal.

Noncompliance Finding #46 - Discipline Procedures (8VA20 81-160)

6. Services during long-term removals.

- a. A child with a disability who is long-term removed receives services during the disciplinary removal so as to enable the student to: (34 CFR 300.530(d))
 - (1) Continue to receive educational services so as to enable the student to continue to participate in the general educational curriculum, although in another setting;
 - (2) Continue to receive those services and modifications including those described in the child's current IEP that will enable the child to progress toward meeting the IEP goals; and

- (3) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

Observation

A review of student files revealed no documentation that disciplinary procedures were followed related to the following:

- Conduct the manifestation determination review (MDR) and/or a functional behavioral assessment (FBA) when required.
- Provide services during short/long term removals.

Noncompliance Finding #47 - Discipline Procedures (8VA20 81-160)

D. Manifestation determination. (34 CFR 300.530(c), (e), (f), and (g))

1. Manifestation determination is required if the local educational agency is contemplating a removal that constitutes a change in placement for a child with a disability who has violated a *Code* of student conduct of the local educational agency that applies to all students.
2. The local educational agency, the parent(s), and relevant members of the child's IEP team, as determined by the parent and the local educational agency, constitute the IEP team that shall convene immediately, if possible, but not later than 10 school days after the date on which the decision to take the action is made.

Observation

A review of a student's record revealed that the MDR was incomplete and no record of disciplinary action taken could be found which would determine provision of services.

Noncompliance Finding #48 - Discipline Procedure (8VA 81-160)

6. If the IEP team determines that the child's behavior was a manifestation of the child's disability:
 - a. The IEP team shall return the child to the placement from which the child was removed unless the parent and the local educational agency agree to a change in placement as part of the modification of the behavioral intervention plan. The exception to this provision is when the child has been removed for not more than 45 school days to an interim alternative educational setting for matters described in subdivision C 5 a of this section. In that case, school personnel may keep the student in the interim alternative educational setting until the expiration of the 45-day period.

- (1) Conduct a functional behavioral assessment, unless the local educational agency had conducted this assessment before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan for the child.
 - (a) A functional behavioral assessment may include a review of existing data or new testing data or evaluation as determined by the IEP team.
 - (b) If the IEP team determines that the functional behavioral assessment will include obtaining new testing data or evaluation, then the parent is entitled to an independent educational evaluation in accordance with 8VAC20-81-170 B if the parent disagrees with the evaluation or a component of the evaluation obtained by the local educational agency;

Observation

A review of a student's record revealed there was no documentation of a review of the student's FBA/BIP following after a removal of more than ten days when the IEP Team determined that his/her behavior was a manifestation of their disability. In this particular case, the BIP developed while the student was in middle school had never been revisited by the team.

General Supervision Noncompliance Findings

General Supervision Noncompliance Finding #1 – Special Education Staffing Requirements /Teacher Licensure/Endorsement (8VAC20-81-40A.2a)

Through a desk audit it was found that some special education teachers lacked the appropriate grade level endorsement, and/or are the teacher of record for some end-of-course (EOC) content courses for which they are not endorsed. Section 22.1-299 of the *Code of Virginia* states, in part, “No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board of Education...” Section 8VAC20-81-40A.2a of the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* state, in part, the following:

2. Personnel assignment.
 - a. Each student shall receive special education services from special education personnel assigned in accordance with the Virginia Licensure Regulations for School Personnel

The school division must immediately address the employment and/or assignment of teachers who are not licensed/endorsed to teach certain grade levels and/or courses.

General Supervision Noncompliance Finding #2 - Invitation to Students - Postsecondary Transition Meetings (8VAC20-81-110 C.3.a.)

File reviews at the middle and high school levels revealed that in some cases there was no documentation that students were invited to their IEP meetings when secondary transition was being discussed.

General Supervision Noncompliance Finding #3 - Provision of IEP Services Consented to by Parent(s)/Guardian(s) (8VAC20-81-10- Definition of FAPE)

A teacher interview and classroom observation of a content high school math class that was listed as co-taught revealed that it was only being taught by a general education teacher. The IEPs of some of the students in the class were reviewed, and they noted that the student's IEP services were to be provided in a co-taught setting. Therefore, these students were not receiving services as outlined in their IEPs.

In addition, a self-contained math class was being taught only by a general education teacher without the support of a special education teacher to provide specially designed instruction. Again, the students in this class were not receiving services as outlined in their IEPs. Alexandria City Public Schools is required to ensure student services, setting, and student courses are congruent.

Additionally, ACPS should ensure that students with disabilities have an opportunity to be educated with their general education peers to the greatest extent possible. If the only option is to take a course in a self-contained setting, the team may consider supports needed in the Algebra I class and document in the student's IEP that the inclusion option was considered.

General Supervision Noncompliance Finding #4 - IEP Progress Reporting (8VAC20-81-110 G.8.b.)

Record review and staff inquiry revealed that secondary-level students with disabilities in ACPS do not receive IEP progress reports as often as their non-disabled peers receive academic reports. More specifically, IEP progress was not provided to parents at interim grade reporting.

General Supervision Noncompliance Finding #5 - Eligibility Requirements (8VAC20-81-80 H.1-2)

Review of student records revealed that in cases where vision and/or hearing screenings were required or requested by team members, the information was not found in student files. Additionally, documentation of the required VDOE eligibility criteria was not always found in student records when initial or continued eligibility was discussed.

General Supervision Noncompliance Finding #6 - IEPs to Address Change in Placement and/or Services (8VAC20-81-10-Definition [not related to discipline]; 8VAC20-81-10-Definition of FAPE)

A review conducted at the division's alternative school found that students with disabilities enrolled in this more restrictive environment, often did not have IEP revision meetings to address changes in services prior to this change in placement. More specifically, services were noted in students' IEPs that were not offered at the alternative school.

General Supervision Noncompliance Finding #7 - Least Restrictive Environment (8VAC20-81-130 A.1.a-b and B.3.)

A review of the division's pre-school center, including student record reviews and interviews, revealed that IEPs for these students denoted the same amount of service time. More specifically, all students attend the center fourteen hours per week based on the program not based on a student's specific service needs. Alexandria City Public Schools should ensure students receive services based on their needs as outlined in the students' IEPs and not based on the program hours. Students' IEPs must be developed according to individual needs, including the amount of service they receive.

Corrective Action for Noncompliance Findings

When noncompliance is identified, timely corrections are essential to ensuring a free appropriate public education. The IEPs and school division procedures and/or practices found in noncompliance must be corrected as soon as practicable, not to exceed one year from the date of the receipt of this report. ACPS is commended on addressing some areas of noncompliance in a timely manner prior to the final report being completed by VDOE. Under separate cover, are supporting documents with personally identifiable student information of records that require immediate attention. Those documents will be provided to the school division via the VDOE's Single Sign-on for Web Systems (SSWS) portal. The review team leader may be contacted for further assistance.